

Notice of Allowability	Application No.	Applicant(s)	
	10/773,002	CHEN ET AL.	
	Examiner	Art Unit	
	Venkataraman Balasubramanian	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/5/2005.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>2/2/05</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|---|

Venkataraman Balasubramanian
 Venkataraman Balasubramanian
 Primary Examiner
 Art Unit: 1624 7125105

DETAILED ACTION

Applicant's election with traverse of Group I, claims 1-4, in the reply filed on 7/5/2005 is acknowledged. Claims 5-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected subject matter.

Claims 1-20 are pending. Claims 1-4 are under examination.

The traversal is on the ground(s) that the class/subclass of the non-elected subject matter of claims are same as the elected subject matter and hence it would not be a search burden. This is not found persuasive because both the criteria for restriction, namely distinct and independent as well as search burden are to be considered in making a restriction requirement. In the instant case both are not met with. The subject matter of Group I relates a process of making an intermediate while the subject matter of Group II relate a Final Product and a process of making. As noted in the previous office action prior art, which teach the process of making the intermediate, need not disclose the final product or process of making it. Thus the two groups are distinct and independent. Contrary to applicants' urging each of the process parameters have to be searched, as the processes do not overlap. Hence it would be serious search burden to search the Final product, search the process of making it and search the process of making the intermediate.

The requirement is still deemed proper and is therefore made FINAL.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph Wang on 7/25/2005. The application has been amended as follows:

1. Cancel claims 5-20.
2. In the first line of claim 1, after "acid" insert "compound of formula IV".
3. In line 2 of claim 1, replace "compound II of the formula" with "compound of formula II".
4. In line 7 of claim 1, replace "compound III of the formula" with "compound of formula III".
5. In line 12 of claim 1, replace "compound IV of the formula" with "compound of formula IV".
6. In claim 4, replace "Claim 3" with "Claim 1".

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The process for making the pyrrolotriazine carboxylic acid of formula IV with specific R₄ R₅ and R₆ groups by reacting triazinone of formula II with a pyruvic acid of formula III as embraced herein was not found to be anticipated or rendered obvious by the prior art of record. Additional search in the related art area also did not yield any prior art disclosing process of making the pyrrolotriazine carboxylic acid of formula IV by reacting triazinone of formula II with a pyruvic acid of formula III as embraced in the instant claims. Therefore, the examiner noted that the claims 1-4 would be in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Acting Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned (703) 872-9306.

Art Unit: 1624

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

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7/25/2005